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John Albert Kembel

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EXAMINER

NGUYEN, CHAU T

ART UNIT

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2176

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/558,923	<b>Applicant(s)</b> KEMBEL ET AL.	
	<b>Examiner</b> CHAU NGUYEN	<b>Art Unit</b> 2176	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11/09/2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 51-55 and 64-78 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 51-55 and 64-78 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/09/2009 has been entered. Claims 51-55 and 64-78 are pending. Claims 1-50 and 56-63 were previously canceled.

### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ

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619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 51, 65-69 and 75-78 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 32, 39, 68, 72-73, and 75 of copending Application No. 09/558,922 and further in view of Barnett et al. (Barnett), US Patent No. 6,369,840.

Although the conflicting claims are not identical, they are not patentably distinct from each other. The subject matter of claim 65-68 and 75-78 claimed in the instant application is fully disclosed in claims 68, 72-73 and 75 in the referenced copending application. The subject matter of claims 51 and 69 claimed in the instant application is fully disclosed in claims 32 and 39 in the

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referenced copending application except the limitation “a rendering a graphical user interface having a frame within which content received from the uniform resource locator is displayed, wherein the one or more controls defined by the control characteristics are the only controls provided on the frame of the graphical user interface for manual navigation of a network via the first networked information monitor”.

In the same field of endeavor, Barnett discloses a “What's New Page” (first networked information monitor template) shown in Figure 5 includes three different tabs such as “My Calendar” tab, “Event Directory” tab and “What's New” tab. Each of these tabs is linked to a different page or frame within which content received from the tab which is displayed, each different page linked to each tab contains hyperlinked information (one or more controls) defined by the graphical user interface so that the user can select what kind of information is displayed there (col. 9, line 7 - col. 10, line 10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Barnett with Wolfe to include a rendering a graphical user interface having a frame within which content received from the uniform resource locator is displayed, wherein the one or more controls defined by the control characteristics are the only controls provided on the frame of the graphical user interface for manual navigation of a network via the first networked information monitor. Barnett suggests that displaying event categories to user would allow the user to obtain more information, and if desired, “subscribe” to that event category.

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This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 51-55 and 64-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolfe, US Patent No. 6,006,252, and further in view of Barnett et al. (Barnett), US Patent No. 6,369,840.

6. As to independent claims 1 and 69, Wolfe discloses in a server system, a method of providing a networked information monitor to a user of a computing device, the method comprising:

storing in electronic storage associated with a first server device, a collection of networked information monitor templates (Figure 16, col. 2, lines 29-30 and col. 9, lines 20-45: a database, that may be used by a computer server, includes a look-up table containing a collection of document names (networked information monitor templates)), the collection of networked information monitor templates comprising a first networked information monitor template configured to define a first networked information monitor (col. 4, lines 8-47: the collection of

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document names includes a document entitled "Flying Over The Precipice" (a first networked information monitor template) which provides information about the "Flying Over The Precipice"),

wherein the first networked information monitor template comprises:

(1) control characteristics defining one or more controls of the first networked information monitor that enable a user to manually navigate a network via the first networked information monitor (Figure 3: the document "Flying Over the Precipice" (the networked information monitor template) displayed on a graphical user interface 306, which includes a title bar containing the name of the particulars server "Universal Theatres, Inc. and the document name "Flying Over the Precipice", which relates to the server Universal Theatres. The document "Flying Over The Precipice" also includes promotions information and advertisement that enables a user to manually click on them (col. 4, lines 30-66));

(2) a content reference that comprises a uniform resource locator at which content for the first networked information monitor is accessible (col. 4, lines 59-66 and Figure 3: the document "Flying Over the Precipice" contains advertisement link 312 displayed at the top of the document, which promotes another Universal Theatre movie "Time Will Tell", and selection of such link may retrieve and display information about the advertised movie); and

(3) instruction configured (i) to cause the first networked information monitor to request content from the uniform resource locator in the content reference, and (ii) to cause the first networked information monitor to render a

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graphical user interface (col. 4, lines 59-66 and Figure 3: the document "Flying Over the Precipice" contains advertisement link 312 displayed at the top of the document, which promotes another Universal Theatre movie "Time Will Tell", and selection of such link may retrieve and display in the same user interface 306 (which is the window or frame defined by the Universal Theatres, Inc. server (frame characteristics)), the information about the advertised movie);

receiving a request from a client computing device at the first server device for the first networked information monitor template (col. 6, lines 29-59: the browser executing on computer 902 (first client device) sends a request to the server for a document (networked information monitor template) stored on the server, i.e., the requested document might be the "Flying Over the Precipice" document shown in Figures 3 and 4, the "Flying Over the Precipice" includes the identity of the document or resource on that particular server, i.e., the particular server is the Universal Theatres, Inc. server (frame characteristics) and the specific resource on that server is the "Flying Over the Precipice" document, both displayed on the title bar in Figures 3 and 4);

in response to the request, transmitting the first networked information monitor from the first server device to the client computing device (col. 6, lines 29-40: the server responds to this request by sending the requested document to the client computer).

However, Wolfe does not explicitly disclose a rendering a graphical user interface having a frame within which content received from the uniform resource locator is displayed, wherein the one or more controls defined by the control



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characteristics are the only controls provided on the frame of the graphical user interface for manual navigation of a network via the first networked information monitor.

In the same field of endeavor, Barnett discloses a "What's New Page" (first networked information monitor template) shown in Figure 5 includes three different tabs such as "My Calendar" tab, "Event Directory" tab and "What's New" tab. Each of these tabs is linked to a different page or frame within which content received from the tab which is displayed, each different page linked to each tab contains hyperlinked information (one or more controls) defined by the graphical user interface so that the user can select what kind of information is displayed there (col. 9, line 7 - col. 10, line 10).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Barnett with Wolfe to include a rendering a graphical user interface having a frame within which content received from the uniform resource locator is displayed, wherein the one or more controls defined by the control characteristics are the only controls provided on the frame of the graphical user interface for manual navigation of a network via the first networked information monitor. Barnett suggests that displaying event categories to user would allow the user to obtain more information, and if desired, "subscribe" to that event category.

7. As to dependent claims 52 and 70, Wolfe discloses wherein the one or more controls of the first networked information monitor defined by the control

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characteristics of the first networked information monitor template include a control associated with a selectable link to internet content hosted remotely from the client computing device such that rendering of the graphical user interface by the client computing device such that rendering the graphical user interface by the client computing device results in a display of the link (col. 6, lines 41-59 and Figures 3-4: the title bars of Figures 3-4 show control characteristics of the window 306, i.e., displaying the server name and the document name in the title bars; col. 4, lines 30-47: the window 306 displays the content of the document "Flying Over The Precipice" within the window).

8. As to dependent claims 53 and 71, Barnett discloses wherein the first networked information monitor template further comprises frame control characteristics defining one or more controls over the appearance of the frame of the graphical user interface that enable manipulation of the appearance of the frame at the client computing platform (Figure 5 also shows a screen shot of a What's New page showing a personalized welcome greeting is displayed, and the information displayed in What's New page is take from the user's individual records in the database, the use's individual records displays a functionality and an appearance of user's specific information (col. 5, lines 44-58 and col. 9, lines 38-47)).

9. As to dependent claims 54 and 72, Barnett discloses wherein the controls defined by the frame control characteristics are the only controls over the

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appearance of the frame at the client computing platform (col. 5, lines 11-15: What's New page (definition) retrieves personal calendar information from data server or web server (web content provider), and the What's New page is taken from the user's individual records in the database, the user's individual records displays a functionality and an appearance of user's specific information (col. 5, lines 44-58 and col. 9, lines 38-47).

10. As to dependent claims 55 and 73, Wolfe discloses wherein the first networked information monitor template further comprises information identifying other networked information monitor templates included in the collection of networked information monitor templates that are related to the first networked information monitor template (Figure 16 and col. 9, lines 20-45).

11. As to dependent claims 64 and 74, Wolfe discloses compiling a searchable index of the collection of networked information monitor templates, and providing access to the searchable index of the collection of networked information monitor templates to the client computing platform over the network (col. 9, lines 20-45: the look-up table shown in Figure 16 includes the index of documents (networked information monitor templates) located at different servers, each of the documents has a unique name).

12. As to dependent claims 65 and 75, Wolfe discloses wherein each of the networked information monitor templates is associated with a unique identifier

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(col. 9, lines 20-45: the look-up table shown in Figure 16 includes the index of documents (networked information monitor templates) located at different servers, each of the documents has a unique name).

13. As to dependent claims 66 and 76, Wolfe discloses wherein the frame surrounds a viewer in which content received from the one or more uniform resource locators is displayed (Figure 16, col. 2, lines 29-30 and col. 9, lines 20-45: a database, that may be used by a computer server, includes a look-up table containing a collection of document names (networked information monitor templates); col. 6, lines 41-59 and Figures 3-4: the title bars of Figures 3-4 show control characteristics of the window 306, i.e., displaying the server name and the document name in the title bars).

14. As to dependent claims 67 and 77, Wolfe, however, does not explicitly disclose wherein the first networked information monitor is defined in a Markup language.

In the same field of endeavor, Barnett discloses application implementation implements each page of the user interface using templates (networked information monitor) and application implementation parses HTTP parameters and generates HTML output for pages (col. 6, lines 31-54).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Barnett with Wolfe to include the first networked information monitor is defined in a Markup language. Barnett

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suggests that constructing HTML page for output so any browser can use or read HTML page.

15. As to dependent claims 68 and 78, Wolfe discloses wherein the first networked information monitor template does not include compiled code (col. 4, lines 16-29: the window 306 is a representation of a document retrieval, browsing, and/or viewing program that is used to view or interact with information or resources).

### ***Response to Arguments***

In the Remarks, Applicant argued that

A) Barnett and/or Stone do not teach or suggest all the features of independent claims 51 and 69.

In reply to this argument, Barnett discloses a rendering a graphical user interface having a frame within which content received from the uniform resource locator is displayed, wherein the one or more controls defined by the control characteristics are the only controls provided on the frame of the graphical user interface for manual navigation of a network via the first networked information monitor (Figure 5 and col. 9, line 7 - col. 10, line 10: Barnett discloses a "What's New Page" (first networked information monitor template) shown in Figure 5 includes three different tabs such as "My Calendar" tab, "Event Directory" tab and "What's New" tab. Each of these tabs is linked to a different page or frame within which content received from the tab which is displayed, each different page

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linked to each tab contains hyperlinked information (one or more controls) defined by the graphical user interface so that the user can select what kind of information is displayed there).

The rest of limitations of independent claims 51 and 69 have been considered but are moot in view of the new ground of rejection under Wolfe reference. Please see the rejection above.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chau Nguyen whose telephone number is (571) 272-4092. The Examiner can normally be reached on Monday-Friday from 8:30 am to 5:30 pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Doug Hutton, can be reached at (571) 272-4137.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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3 December 2009